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Passages Silver Strand LLC and
Grasshopper House LLC

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

Grasshopper House LLC, a California limited liability company doing business as Passages Malibu, **Passages Silver Strand LLC**, a California limited liability company,

Plaintiffs,

vs.

Renaissance Malibu Foundation, a California non-profit corporation

Defendant

Civil Case No.: 3:09-CV-778-HA

**DECLARATION OF DAVID KAISER
IN SUPPORT OF MOTION FOR
ORDER TO SHOW CAUSE**

Salvatore Petrucci, an individual; **Renaissance Recovery Services, LLC**, a California limited liability company; **NNB Recovery Services, LLC**, a California limited liability company.

Additional Parties Bound By Injunction

I, David Kaiser, declare as follows:

1. I am currently a consultant with Soba Living, LLC, Malibu Recovery Center, 22669 Pacific Coast Highway, Malibu, CA. 90265. I have more than 20 years of business experience in finance, sales, and marketing.

2. I was the former Executive Director and Chief Operating Officer of Renaissance Recovery Services, LLC and NNB Recovery Services, LLC collectively "Renaissance" for approximately 20 months from June 2008 – January 28, 2010. I was also a Director of Renaissance Malibu Foundation from March 2009-January 28, 2010. As part of my duties, doctors, the clinical staff and administration reported to me, and I, in turn, reported directly to CEO and Founder Sal Petrucci. I was involved in the recruitment, interviewing, hiring and termination of employees and independent contractors, including Marketing Director Sarah Harris, and was provided their budget for monthly review. I also received all incoming admission calls from prospective clients who needed treatment for substance abuse, and managed the clinical team of doctors and therapists. As Executive Director and COO, I worked with CEO Sal Petrucci, CFO Lisa Bruno, VP Amy Petrucci, Marketing Director Sarah Harris, and other Renaissance employees. I was involved in nearly every aspect of Renaissance's business and have personal knowledge of Renaissance's operations.

3. Renaissance Malibu Foundation is intertwined with Renaissance Recovery Services, LLC and NNB Recovery Services, LLC, and the organizations operate under the common control of Sal Petrucci. CEO Sal Petrucci launched Renaissance Malibu Foundation, "Foundation" as an arm of Renaissance in order to subsidize scholarships for clients who could not afford the full cost of treatment at Renaissance, engage in community outreach and raise Renaissance's public profile. Under Petrucci's direction, I was involved as a Director of the Foundation including drafting the mission statement, seeking an IRS exemption, contacting Renaissance alumni, organizing a benefit, and coordinating with web support to add the Foundation to Renaissance's website. The entities are run by the same officers and directors, including CEO Sal Petrucci,

CFO Lisa Bruno, VP Amy Petrucci, and Marketing Director Sarah Harris, have the same employees, and share the same address, website, email address, fax and phone lines. The entities interchangeably handled payroll, credit card processing, and other functions for Renaissance operations. The Articles of Incorporation for Renaissance Malibu Foundation list Petrucci as the incorporator of the corporation and the directors of the corporation as Lisa Bruno, David Kaiser (myself), and Salvator Petrucci.

4. When I answered incoming calls at Renaissance from prospective clients inquiring about treatment, and I answered all of them over the 20 month period, I received many calls from prospective clients who believed they were calling Passages, Betty Ford and other competing facilities. Customers often called and asked: "Is this Passages?" "Is this Betty Ford?" or wanted to order the Passages book. I would explain that we were a different facility that provided the same treatment services.

5. I asked CEO Petrucci why prospective customers kept calling Renaissance asking for our competitors, to which Petrucci responded that Renaissance used and bid on the key words of competing facilities as search terms, such as "PASSAGES" and "BETTY FORD". This meant that when a prospective customer typed in an Internet search for a competitor that they wished to contact, such as "PASSAGES", the Renaissance website link would appear on their computer screen. CEO Petrucci and Marketing Director Sarah Harris purposely chose competitors' names and trademarks as search terms in order capture and divert customers who were searching for our competitors. CEO Petrucci and Marketing Director Harris paid for competitors' names and trademarks as search terms by bidding for the terms on Google, Yahoo, MSN/Bing, and ASK.com. Petrucci and Director Harris bid on search terms almost daily and the amount

Renaissance paid reflected the order in which Renaissance's website link would appear in the search results, which was often at the top. Directing Internet traffic was Renaissance's primary marketing tool, and "search" was a core job function in their Marketing Department when Renaissance hired Marketing Director Sarah Harris during my tenure. Renaissance essentially rode the coat tails of respected competitors, when Renaissance had almost no advertising budget other than purchasing ad words of competitor's trademarks and names.

6. I was concerned that Renaissance was using the intellectual property of others to misdirect Internet traffic and complained to both CEO Petrucci and Market Director Sarah Harris about this practice. They ignored my objections and concerns and took an "everyone's doing it" approach. I even showed them federal law to show them the practice was unlawful, but they continued using others trademarks as search terms.

7. Renaissance competes for the same patients as Passages. The companies offer identical services for the same clientele and are located within a mile of each other in Malibu, CA. The companies compete for national clientele, including patients from Oregon and the Pacific Northwest. The programs share the same price point and therapy programs.


8. In July 2009, Renaissance received a copy of the trademark infringement complaint filed in the District of Oregon. The complaint was sent to the Foundation at a shared mail and e-mail address with its related entities. The Foundation shared a common email address, address, phone and fax with Renaissance Recovery LLC and NNB Recovery LLC. I discussed the complaint with CEO Sal Petrucci and Marketing Director Sarah Harris.

9. CEO Petrucci, CFO Lisa Bruno, Vice President, Amy Petrucci, and Marketing Director also had notice of the judgment entered in Oregon against Renaissance Malibu Foundation. The judgment was sent to the Foundation at a shared address with its related entities, and I specifically received an e-mail notification that our registered agent had been served, because the entities had a shared e-mail address. When I learned that a judgment had been entered against the Foundation, I questioned Sal Petrucci, and he told me not to worry because the wrong entity had been sued.

10. In my 20 month tenure at Renaissance, the facility definitely benefited from using ad words like "PASSAGES" and "PASSAGES MALIBU". Many of our incoming phone calls and e-mail inquiries were from prospective clients who thought they were contacting Passages. On a typical day, Renaissance received approximately 5-10 phone calls and 15-20 emails, many of them were prospective customers who were looking for Passages. Treatment cost approximately \$60,000 per patient, so diverting prospective customers through Internet searches was highly profitable.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 25, 2010



David Kaiser